

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

**ROBIN BUCHHEIT and
GARY BUCHHEIT,**

Plaintiffs,

vs.

**ASHLEY FURNITURE INDUSTRIES,
INC.**

Serve: Registered Agent
CT Corporation
120 South Central
Clayton, MO 63105

Defendant.

Case No.:

JURY TRIAL DEMANDED

Division:

PLAINTIFFS' COMPLAINT FOR WRONGFUL DEATH

Come now Plaintiffs, Robin Buchheit and Gary Buchheit ("**Plaintiffs**"), and for their claim state:

1. That Plaintiffs Robin Buchheit and Gary Buchheit are individuals residing in Franklin County, Missouri and are the surviving parents of Ryan Buchheit who was born on September 27, 2003.
2. That Defendant Ashley Furniture Industries, Inc. ("**ASHLEY**") is a Wisconsin corporation with its principal place of business in Wisconsin and is registered to do business in Missouri with the Missouri Secretary of State.
3. Ashley designs, manufactures, distributes and sells children's beds, including a Caspian Youth model metal bunk bed, model number B370-57 that was manufactured in January, 2008 (hereinafter referred to as "**bed**").

4. That this claim is brought pursuant to the Missouri Wrongful Death Statute § 508.080 et seq. and Plaintiffs bring this claim for the Wrongful Death of Ryan Buchheit who died on or about October 17, 2008.

5. That the amount in controversy, without interest and cost, exceeds the sum or value specified by 28 U.S.C. §1332.

6. All conditions precedent to bringing this action have occurred, been excused, or been waived.

7. This Court has original diversity jurisdiction over all matters alleged herein.

8. That Robin Buchheit purchased a Caspian Youth model metal bunk bed, model number B370-57.

9. That on the evening of October 17, 2008, Robin Buchheit placed Ryan Buchheit (“**Ryan**”) in the lower bunk of the bed to sleep. During the night, while Ryan’s older sister slept in the upper bunk, Ryan rolled over on the mattress so as to trap his neck between the attached ladder framework and the mattress causing him to strangle and suffocate to death.

COUNT I

For Count I of its Complaint against ASHLEY for Strict Liability, Plaintiffs state as follows:

10. Plaintiffs adopt and incorporate herein by reference Paragraph Nos. 1 through and including 9 of its Complaint as and for Paragraph No. 10 of its Complaint as though fully set forth herein.

11. That the lower bunk of the youth bed was then in a defective condition unreasonably dangerous when put to a reasonably anticipated use due to head entrapment spacing hazards present in the bed.

12. That the youth bed was used in a manner reasonably anticipated.

13. That such defective condition as existed when the youth bed was sold directly caused or contributed to cause the death of Ryan Buchheit.

14. By reason thereof Plaintiffs have been deprived of the reasonable value of the services, consortium, companionship, comfort, instruction, guidance, counsel, training, and support of Ryan Buchheit and have further incurred reasonable medical and funeral expenses for Ryan Buchheit, and are entitled to such damages as Ryan Buchheit suffered between the time of Defendant's tortious acts and the time of his death.

15. That ASHLEY had specific experience with head entrapment spacing hazards on bunk beds that it had manufactured since the year 2000 and had recalled many thousands of bunk beds that had such head entrapment spacing hazards.

16. That in spite of this actual knowledge of the unique dangers presented by head entrapment spacing hazards to youth, ASHELY designed, manufactured, distributed and sold this Caspian model youth bunk bed understanding that such head entrapment spacing hazards were presented by this design. ASHLEY thereby showed complete indifference to and/or conscious disregard for the safety of the youth that would sleep in these beds thereby justifying the imposition of punitive damages.

WHEREFORE, Plaintiffs pray for judgment against Defendant ASHLEY for damages in a fair and reasonable amount in excess of \$75,000.00 exclusive of interest and costs, for punitive and exemplary damages in such sum as to punish ASHLEY and

deter ASHLEY and others from like conduct and for such other and further orders as seems just and proper including its costs expended.

COUNT II

For Count II of its Complaint against ASHLEY for Negligent Manufacture and Design, Plaintiffs state as follows:

17. Plaintiffs adopt and incorporate herein by reference Paragraph Nos. 1 through and including 16 of its Complaint as and for Paragraph No. 17 of their Complaint as though fully set forth herein.

18. That ASHLEY failed to use ordinary care to manufacture and design the bed to be reasonably safe.

WHEREFORE, Plaintiffs pray for judgment against Defendant ASHLEY for damages in a fair and reasonable amount in excess of \$75,000.00 exclusive of interest and costs, for punitive and exemplary damages in such sum as to punish ASHLEY and deter ASHLEY and others from like conduct and for such other and further orders as seem just and proper including its costs expended.

COUNT III

For Count III of its Petition against ASHLEY for Strict Liability Failure to Warn, Plaintiffs state as follows:

19. Plaintiffs adopt and incorporate herein by reference Paragraph Nos. 1 through and including 18 of its Complaint as and for Paragraph No. 19 of their Complaint as though fully set forth herein.

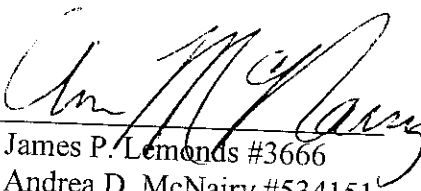
20. That the bed was then unreasonably dangerous when put to a reasonably anticipated use without knowledge of its characteristics.

21. That ASHLEY did not give an adequate warning of the danger.

WHEREFORE, Plaintiffs pray for judgment against Defendant ASHLEY for damages in a fair and reasonable amount in excess of \$75,000.00 exclusive of interest and costs, for punitive and exemplary damages in such sum as to punish ASHLEY and deter ASHLEY and others from like conduct and for such other and further orders as seem just and proper including its costs expended.

BROWN & CROUPPEN, P.C.

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